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Plaintiffs' Counsel

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

IN RE PACIFIC FERTILITY CENTER
LITIGATION

This Document Relates to:
Case No. 3:18-cv-01586
(A.B., C.D., E.F., G.H., and I.J.)

Case No. 3:18-cv-01586-JSC

**PLAINTIFFS' ADMINISTRATIVE
MOTION TO FILE UNDER SEAL**

N.D. Cal. Local Rules 7-11 and 79-5(e)

Judge: Hon. Jacqueline Scott Corley

No Hearing Date Set Pursuant to L.R. 7-11(c)

TO THE COURT AND ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that Plaintiffs will and hereby do move the Court, pursuant to Civil Local Rule 79-5, for an administrative order to file under seal the following documents or portions thereof:

- Portions of Plaintiffs' Motion to Exclude Expert Testimony;
- Certain exhibits to the Declaration of Amy M. Zeman in Support of Plaintiffs' Motion to Exclude Expert Testimony, including
 - Exhibit 1 – Expert Report of Eldon Leaphart dated November 6, 2020;
 - Exhibit 2 – Excerpts from the November 18, 2020 deposition of Eldon Leaphart;
 - Exhibit 3 – Expert Report of John Cauthen dated November 6, 2020;
 - Exhibit 4 – Excerpts from the November 24, 2020 Deposition of John Cauthen
 - Exhibit 5 – Supplemental Report of Grace Centola dated November 20, 2020;
 - Exhibit 6 – Excerpts from the November 23, 2020 deposition of Grace Centola;
 - Exhibit 7 – Supplemental Report of Franklin Miller dated November 20, 2020;
 - Exhibit 8 – Excerpts from the December 1, 2020 Franklin Miller deposition;
 - Exhibit 9 – Second Rebuttal Report of Franklin Miller dated December 11, 2020;
 - Exhibit 10 – Expert Report of Angela Lawson dated December 4, 2020;
 - Exhibit 11 – Excerpts from the December 11, 2020 deposition of Angela Lawson;
 - Exhibit 13 – Bates-stamped document MSO005378 – MSO005380; and
 - Exhibit 14 – Pacific MSO, LLC's Response to Defendant Chart, Inc.'s Subpoena for 30(b)(6) Deposition by Written Questions, dated October 23, 2020; and
- Portions of Plaintiffs' Proposed Order to Exclude Expert Testimony.

Plaintiffs file this motion to comply with the Second Amended Stipulated Protective Order (ECF No. 596) and Civil Local Rule 79-5. Pursuant to Civil Local Rules 79-5 and 7-11(c), no hearing date has been set.

Material to Be Filed Under Seal

Paragraph 12.3 of the Second Amended Stipulated Protective Order prohibits a party from filing in the public record any disclosure or discovery material that is designated “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” (“Protected Material”) without written permission from the Designating Party or a court order secured after appropriate notice to all interested persons. Protected Material includes portions of pleadings that contain, summarize, or reflect the Protected Material. ECF No. 598 at ¶ 12.3.

Material Designated by Defendants. Defendants Chart Inc. designated the material in exhibits 1 through 9 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” and the material in exhibits 10 and 11 “CONFIDENTIAL.” Third-Party Pacific MSO, LLC designated the materials in exhibits 13 and 14 “CONFIDENTIAL.” All of the material marked for sealing in Plaintiffs’ Motion to Exclude Expert Testimony derives from material designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” by those two entities. Pursuant to Local Rules 79-5(e)(1) and (2), the Designating Parties are responsible for establishing that all of the designated materials are sealable. With the exception of Plaintiff names and other identifying information in the Expert Report of Angela Lawson, which the Court has previously permitted to be filed under seal (*see* Order, ECF No. 404), Plaintiffs do not consider it appropriate to keep these materials under seal.

Plaintiffs nonetheless move to file the designated materials under seal pursuant to paragraph 12.3 of the Second Amended Stipulated Protective Order and Local Rules 7-11 and 79-5.

As required by Civil Local Rule 79-5(d)(1), the following attachments accompany this motion:

1. The Declaration of Amy M. Zeman in Support of Plaintiffs’ Administrative Motion to Seal;
2. A proposed order that lists each document and portion thereof sought to be sealed;
3. Redacted and unredacted versions of the Motion to Exclude Expert Testimony;
4. Redacted and unredacted versions of the exhibits to the Declaration of Amy M. Zeman in Support of Plaintiffs’ Motion to Exclude Expert Testimony; and

5. Redacted and unredacted version of Plaintiffs' Proposed Order to Exclude Expert Testimony.

Dated: December 22, 2020

Respectfully submitted,

By: /s/ Amy M. Zeman

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Plaintiff's Counsel

CERTIFICATE OF SERVICE

I hereby certify that on December 22, 2020, I electronically filed the foregoing document using the CM/ECF system, which will send notification of such filing to all counsel of record registered in the CM/ECF system. I also caused an unredacted copy of the foregoing document to be served via email on counsel of record.

/s/ Amy Zeman